

(e) At the appellant's discretion, the appeal may be accompanied by a request that the Regional Administrator seek a recommendation from the Council as to whether the appeal should be granted. Such a request must contain the appellant's acknowledgment that the confidentiality provisions of the Magnuson-Stevens Act at 16 U.S.C. 1853 (d) and part 600 of this chapter are waived with respect to any information supplied by Regional Administrator to the Council and its advisory bodies for purposes of receiving the Council's recommendation on the appeal. In responding to a request for a recommendation on appeal, the Council will apply the provisions of the PCGFMP in making its recommendation as to whether the appeal should be granted.

(f) Absent good cause for further delay, the Regional Administrator will issue a written decision on the appeal within 45 days of receipt of the appeal, or, if a recommendation from the Council is requested, within 45 days of receiving the Council's recommendation. The Regional Administrator's decision is the final administrative decision of the Department as of the date of the decision.

[66 FR 40922, Aug. 6, 2001]

§ 660.341 Limited entry permit sanctions.

Limited entry permits issued or applied for under this subpart are subject to sanctions pursuant to the Magnuson Act at 16 U.S.C. 1858(g) and 15 CFR part 904, subpart D.

§ 660.350 Compensation with fish for collecting resource information—exempted fishing permits off Washington, Oregon, and California.

In addition to the reasons stated in § 600.745(b)(1) of this chapter, an EFP may be issued under this subpart G for the purpose of compensating the owner or operator of a vessel for collecting resource information according to a protocol approved by NMFS. NMFS may issue an EFP allowing a vessel to retain fish as compensation in excess of trip limits or to be exempt from other specified management measures for the Pacific coast groundfish fishery.

(a) *Compensation EFP for vessels under contract with NMFS to conduct a resource survey.* NMFS may issue an EFP to the owner or operator of a vessel that conducted a resource survey according to a contract with NMFS. A vessel's total compensation from all sources (in terms of dollars or amount of fish, including fish from survey samples or compensation fish) will be determined through normal Federal procurement procedures. The compensation EFP will specify the maximum amount or value of fish the vessel may take and retain after the resource survey is completed.

(1) *Competitive offers.* NMFS may initiate a competitive solicitation (request for proposals or RFP) to select vessels to conduct resource surveys that use fish as full or partial compensation, following normal Federal procurement procedures.

(2) *Consultation and approval.* At a Council meeting, NMFS will consult with the Council and receive public comment on upcoming resource surveys to be conducted if groundfish could be used as whole or partial compensation. Generally, compensation fish would be similar to surveyed species, but there may be reasons to provide payment with healthier, more abundant, less restricted stocks, or more easily targeted species. For example, NMFS may decline to pay a vessel with species that are, or are expected to be, overfished, or that are subject to overfishing, or that are unavoidably caught with species that are overfished or subject to overfishing. NMFS may also consider levels of discards, bycatch, and other factors. If the Council does not approve providing whole or partial compensation for the conduct of a survey, NMFS will not use fish, other than fish taken during the scientific research, as compensation for that survey. For each proposal, NMFS will present:

- (i) The maximum number of vessels expected or needed to conduct the survey.
- (ii) An estimate of the species and amount of fish likely to be needed as compensation,
- (iii) When the survey and compensation fish would be taken, and

(iv) The year in which the compensation fish would be deducted from the ABC before determining the optimum yield (harvest guideline or quota).

(3) *Issuance of the compensation EFP.* Upon successful completion of the survey, NMFS will issue a “compensation EFP” to the vessel if it has not been fully compensated. The procedures in § 600.745(b)(1) through (b)(4) of this chapter do not apply to a compensation EFP issued under this subpart for the Pacific coast groundfish fishery (50 CFR part 660, subpart G).

(4) *Terms and conditions of the compensation EFP.* Conditions for disposition of bycatch or any excess catch, for reporting the value of the amount landed, and other appropriate terms and conditions may be specified in the EFP. Compensation fishing must occur during the period specified in the EFP, but no later than the end of September of the fishing year following the survey, and must be conducted according to the terms and conditions of the EFP.

(5) *Reporting the compensation catch.* The compensation EFP may require the vessel owner or operator to keep separate records of compensation fishing and to submit them to NMFS within a specified period of time after the compensation fishing is completed.

(6) *Accounting for the compensation catch.* As part of the harvest specifications process (§ 660.370), NMFS will advise the Council of the amount of fish authorized to be retained under a compensation EFP, which then will be deducted from the next harvest specifications (ABCs) set by the Council. Fish authorized in an EFP too late in the year to be deducted from the following year’s ABCs will be accounted for in the next management cycle where it is practicable to do so.

(b) *Compensation for commercial vessels collecting resource information under a standard EFP.* NMFS may issue an EFP to allow a commercial fishing vessel to take and retain fish in excess of current management limits for the purpose of collecting resource information (§ 600.745(b) of this chapter). The EFP may include a compensation clause that allows the participating vessel to be compensated with fish for its efforts to collect resource information accord-

ing to NMFS’ approved protocol. If compensation with fish is requested in an EFP application, or proposed by NMFS, the following provisions apply in addition to those at § 600.745(b) of this chapter.

(1) *Application.* In addition to the requirements in § 600.745(b) of this chapter, application for an EFP with a compensation clause must clearly state whether a vessel’s participation is contingent upon compensation with groundfish and, if so, the minimum amount (in metric tons, round weight) and the species. As with other EFPs issued under § 600.745 of this chapter, the application may be submitted by any individual, including a state fishery management agency or other research institution.

(2) *Denial.* In addition to the reasons stated in § 600.745(b)(3)(iii) of this chapter, the application will be denied if the requested compensation fishery, species, or amount is unacceptable for reasons such as, but not limited to, the following: NMFS concludes the value of the resource information is not commensurate with the value of the compensation fish; the proposed compensation involves species that are (or are expected to be) overfished or subject to overfishing, fishing in times or areas where fishing is otherwise prohibited or severely restricted, or fishing for species that would involve unavoidable bycatch of species that are overfished or subject to overfishing; or NMFS concludes the information can reasonably be obtained at a less cost to the resource.

(3) *Window period for other applications.* If the Regional Administrator or designee agrees that compensation should be considered, and that more than a minor amount would be used as compensation, then a window period will be announced in the FEDERAL REGISTER during which additional participants will have an opportunity to apply. This notification would be made at the same time as announcement of receipt of the application and request for comments required under § 660.745(b). If there are more qualified applicants than needed for a particular time and area, NMFS will choose

among the qualified vessels, either randomly, in order of receipt of the completed application, or by other impartial selection methods. If the permit applicant is a state, university, or Federal entity other than NMFS, and NMFS approves the selection method, the permit applicant may choose among the qualified vessels, either randomly, in order of receipt of the vessel application, or by other impartial selection methods.

(4) *Terms and conditions.* The EFP will specify the amounts that may be taken as scientific samples and as compensation, the time period during which the compensation fishing must occur, management measures that NMFS will waive for a vessel fishing under the EFP, and other terms and conditions appropriate to the fishery and the collection of resource information. NMFS may require compensation fishing to occur on the same trip that the resource information is collected.

(5) *Accounting for the catch.* Samples taken under this EFP, as well as any compensation fish, count toward the current year's catch or landings.

[64 FR 49101, Sept. 10, 1999, as amended at 67 FR 65906, Oct. 29, 2002; 68 FR 52523, Sept. 4, 2003; 69 FR 42351, July 15, 2004]

§ 660.365 Overfished species rebuilding plans.

For each overfished groundfish stock with an approved rebuilding plan, this section contains the standards to be used to establish annual or biennial OYs, specifically the target date for rebuilding the stock to its MSY level and the harvest control rule to be used to rebuild the stock. The harvest control rule is expressed as a "Spawning Potential Ratio" or "SPR" harvest rate.

(a) *Bocaccio.* The target year for rebuilding the southern bocaccio stock to B_{MSY} is 2026. The harvest control rule to be used to rebuild the southern bocaccio stock is an annual SPR harvest rate of 77.7 percent.

(b) *Canary rockfish.* The target year for rebuilding the canary rockfish stock to B_{MSY} is 2021. The harvest control rule to be used to rebuild the canary rockfish stock is an annual SPR harvest rate of 88.7 percent.

(c) *Cowcod.* The target year for rebuilding the cowcod stock south of

Point Conception to B_{MSY} is 2072. The harvest control rule to be used to rebuild the cowcod stock is an annual SPR harvest rate of 82.1 percent.

(d) *Darkblotched rockfish.* The target year for rebuilding the darkblotched rockfish stock to B_{MSY} is 2028. The harvest control rule to be used to rebuild the darkblotched rockfish stock is an annual SPR harvest rate of 62.1 percent.

(e) *Pacific ocean perch (POP).* The target year for rebuilding the POP stock to B_{MSY} is 2017. The harvest control rule to be used to rebuild the POP stock is an annual SPR harvest rate of 86.4 percent.

(f) *Widow rockfish.* The target year for rebuilding the widow rockfish stock to B_{MSY} is 2015. The harvest control rule to be used to rebuild the widow rockfish stock is an annual SPR harvest rate of 95.0 percent.

(g) *Yelloweye rockfish.* The target year for rebuilding the yelloweye rockfish stock to B_{MSY} is 2084. The harvest control rule to be used to rebuild the yelloweye rockfish stock is an annual SPR harvest rate of 66.3 percent in 2009 and in 2010. Yelloweye rockfish is subject to a ramp-down strategy where the harvest level has been reduced annually from 2007 through 2009. Yelloweye rockfish will remain at the 2009 level in 2010. Beginning in 2011, yelloweye rockfish will be subject to a constant harvest rate strategy with a constant SPR harvest rate of 71.9 percent.

[71 FR 78655, Dec. 29, 2006, as amended at 74 FR 9887, Mar. 6, 2009]

§ 660.370 Specifications and management measures.

(a) *General.* NMFS will establish and adjust specifications and management measures biennially or annually and during the fishing year. Management of the Pacific Coast groundfish fishery will be conducted consistent with the standards and procedures in the PCGFMP and other applicable law. The PCGFMP is available from the Regional Administrator or the Council. Regulations under this subpart may be promulgated, removed, or revised during the fishing year. Any such action will be made according to the framework standards and procedures in the PCGFMP and other applicable law, and